ELEMENTS OF EU REACTION TO DRAFT REPORTS FROM MAIN COMMITTEES AND SUBSIDIARY BODIES DATED 14 MAY 2010

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ELEMENTS OF EU REACTION TO DRAFT REPORTS FROM MAIN COMMITTEES AND SUBSIDIARY BODIES DATED 14 MAY 2010

GENERAL COMMENTS FOR ALL DRAFT REPORTS

1. The EU wishes to thank all the Chairpersons of the Main Committees and Subsidiary Bodies. We welcome this honest and fair attempt by all of them to reflect as much as possible the very rich discussions which took place during the General Debate and the first week of meetings of Main Committees and Subsidiary Bodies.

2. We realise that these Draft Reports could not include all the proposals that have been presented and all the views that have been expressed during those discussions. We have identified a number of proposals and positions put forward by the European Union which have not been included and we reserve our right to reiterate them in the discussions during this week and to request that they be included in the subsequent Reports of these organs.

3. While we have done our best to prepare as quickly as possible these elements of reaction from the European Union to these Draft Reports, we need to indicate that there has been very little time for our capitals to have a full consideration of these texts. We are still awaiting more detailed instructions on many parts of the Draft Reports. We are looking forward to continue working on the basis of these three Draft Reports. We also feel obliged to reserve our right to present at a later stage, during the discussions of this week, other considerations, comments and amendment proposals to the Draft Reports.

4. We will not always be able to propose at this early stage specific drafting amendments as requested by the Chairpersons of the Main Committees during their oral presentations at the Plenary meeting last Friday. In some instances, we will need to limit our considerations to more general comments, remarks and proposals for amendment. In as much as possible, we will attempt to refer to specific paragraphs to help identify our positions.

5. At this point, I would like to mention that I will make frequent references to the Position approved by the EU Council of Ministers for this Review Conference (Council Decision 2010/212/CFSP), that has been distributed at the Review Conference to all States Parties as WP.31 submitted by Spain on behalf of the European Union. To avoid lengthy repetitions, I will refer to this document as the EU Common Position. With our written remarks, we will be distributing the texts on the issues being dealt with in each particular Main Committee and Subsidiary Body, as contained in this EU Common Position and in the EU Statements at this Review Conference.
6. Concerning the structure or format of the Draft Reports, we welcome the fact that all three Draft Reports include, in one way or another, forward looking actions or action plan. The EU Common Position, in Article 1, states that our objective is to promote a substantive and balanced outcome of the Review Conference. For this reason, it is very important to include such a forward looking approach in all three pillars of the NPT and in all other decisions that may be adopted by the Review Conference.

7. In this regard, we note significant differences in the levels of treatment and ambition contained in the Draft Reports. We encourage the Chairpersons of the Main Committees and Subsidiary Bodies to work towards a more harmonized structure of the Reports of the three Main Committees that will have to be delivered to the President of the Review Conference. We believe this effort could help in building consensus.

8. We have noticed some occasions where the same or similar issues have been addressed in the Draft Reports of the different Main Committees. This creates duplications that should generally be avoided. Furthermore, the language used for addressing these issues is not always consistent across all three Draft Reports. We will need to carefully consider this matter in order to ensure coherence and consistency.

9. We have also noticed some problems between the three Draft Reports as regards the elements that are included in the review parts and in the forward looking parts, of these Draft Reports. We also think care should be taken to address this matter and to try to harmonize as much as possible the three Reports in this respect.

10. I would like to address finally an important matter of substance that arises in all three Draft Reports. On many occasions, language from the decisions and resolution of the 1995 Review and Extension Conference and from the final document of the 2000 Review Conference has been used. This is consensus language and can help build the consensus the European Union is seeking. We believe we must take into account, at the same time, the events occurred in the global disarmament and non proliferation regime during the last at least ten years, when working towards the outcome of the 2010 NPT Review Conference.

11. The European Union would like, once again, to commend the efforts made by the Chairpersons of the Main Committees and Subsidiary Bodies to move the work and discussions of the Review Conference towards a common understanding and we will now present our comments and proposals for Main Committee II and Subsidiary Body 2.
Further to the general considerations for all three Draft Reports just outlined, the European Union would like to make the following remarks concerning the Draft Report of Main Committee II and Subsidiary Body 2:

- We will not be delivering remarks on Subsidiary Body 2 at this stage. We will wait for the language to be included in the current place-holders.

- As a general remark, the EU considers that the section entitled “Forward looking Action Plan” should be more concise and more focused so as to be able to identify more clearly the Actions to be undertaken.

- We cannot be fully satisfied with the way in which concerns over compliance are dealt with in this Draft Report. In the EU Common Position, we have recognized that major proliferation challenges have occurred in recent years, in particular in the DPRK and Iran, and we have stressed that the international community must be ready to face up to them and take resolute action in response.

- Bearing in mind the importance of full compliance with the NPT, the EU believes that the nuclear issue of Iran should be addressed resolutely and effectively and Iran should be requested to comply fully and unconditionally with all relevant Resolutions of the IAEA Board of Governors and the UNSC and to clarify nuclear activities with a possible military dimension.

- The EU believes that the case of DPRK should be addressed resolutely and effectively, including through a call within the Actions to be undertaken for its full, immediate and unconditional compliance with all relevant UNSC Resolutions.

- Furthermore, we request the inclusion, in accordance with the EU Common Position, of the need to strengthen the role of the UNSC, as final arbiter, in order that it can take appropriate action in the event of non compliance with NPT obligations. We also call for nuclear cooperation to be suspended where the IAEA is not able to provide adequate assurances that a state’s nuclear programme is designed exclusively for peaceful purposes.

- Also in accordance with the EU Common Position, we request the highlighting of the IAEA’s unique role in verifying states’ compliance with their nuclear non-proliferation obligations and a call for the strengthening of the IAEA safeguards system to ensure greater detectability of violations of non-proliferation obligations.

- While Article X of the Treaty is being dealt with in Subsidiary Body 3, the EU Common Position highlights the potential implications for
international peace and security of withdrawal from the NPT and, within
this Main Committee, we support the adoption of measures in this
regard, including arrangements for maintaining adequate IAEA
safeguards on all nuclear materials, equipment, technologies and
facilities developed for peaceful purposes.

- The EU strongly supports the proposals contained in the section on
"Forward looking Action Plan" regarding the affirmation that a
Comprehensive Safeguards Agreement, together with an Additional
Protocol, represents the verification standard that best fulfils the
objectives of Article III of the Treaty and recognising the importance of
appropriate effective export controls. We have presented our views in
detail on this very important matter within our Statements at this Review
Conference.

- We consider that explicit reference should be made to the need to do
everything possible to prevent the risk of nuclear terrorism and, in this
context, to stress the need for compliance with obligations under UNSC
Resolutions 1540 (2004) and 1887 (2009) and to support national and
international efforts to strengthen nuclear security consistent with the
Communiqué and Work Plan issued at the recent Nuclear Security
Summit.

- On a specific point, in paragraph 60, we consider it is necessary to add
at the end of the paragraph the words "and in good standing".

- The EU welcomes the references to the Zangger Committee and the
Nuclear Suppliers Group.

- In accordance with the EU Common Position, we support implementing,
at national level, effective export, transit, transhipment and re-export
controls, including appropriate laws and regulations for that purpose, and
resolute international and national efforts to combat proliferation
financing and to control access to intangible transfers of technology, as
well as enacting effective criminal sanctions against acts of proliferation,
in order to deter illegal export, transit, brokering, trafficking and related
financing, in compliance with United Nations Security Council Resolution
1540 (2004);
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strengthening the effectiveness and comprehensiveness of the non-proliferation regime through making the conclusion of a Comprehensive Safeguards Agreement together with the Additional Protocol the verification standard, under Article III of the NPT;

upholding the NPT, bearing in mind current major proliferation challenges, in particular in the Democratic People’s Republic of Korea and the Islamic Republic of Iran, through a common understanding of States Parties on how to respond resolutely and effectively to cases of non-compliance;

NON-PROLIFERATION

26. recognising that major nuclear proliferation challenges have occurred in recent years, in particular in the Democratic People’s Republic of Korea and the Islamic Republic of Iran, stressing that the international community must be ready to face up to them and stressing the need to take resolute action in response;

27. stressing the need to strengthen the role of the United Nations Security Council, as final arbiter, in order that it can take appropriate action in the event of non-compliance with NPT obligations, in keeping with the Statute of the International Atomic Energy Agency (IAEA), including the application of safeguards;

29. calling for nuclear cooperation to be suspended where the IAEA is not able to provide adequate assurances that a state’s nuclear programme is designed exclusively for peaceful purposes, until such time as the IAEA is able to provide such assurances;

33. acknowledging the importance of nuclear-weapon-free zones for peace and security, on the basis of arrangements freely entered into between the states of the region concerned, in accordance with 1999 UNDC guidelines;

34. stressing the need to do everything possible to prevent the risk of nuclear terrorism, linked to possible terrorist access to nuclear weapons or materials that could be used in the manufacture of radiological dispersal devices and, in this context, stressing the need for compliance with obligations under United Nations Security Council Resolutions 1540 (2004) and 1887 (2009) and calling for improved nuclear security for high radioactive sources;

35. calling on all states that have not yet done so, to sign, ratify and implement the International Convention for the Suppression of Acts of Nuclear Terrorism, as important part of the international legal framework to address the threats of nuclear terrorism;
36. in the light of the increased threat of nuclear proliferation and terrorism, supporting the G8 Global Partnership Initiative and IAEA action and other multilateral mechanisms in this regard, such as the Proliferation Security Initiative, the Global Initiative to Combat Nuclear Terrorism and the Global Threat Reduction Initiative; welcoming the security objectives of the Global Nuclear Security Summit;

37. recognising that Comprehensive Safeguards Agreements with Additional Protocols have a deterrent effect on nuclear proliferation and form today’s verification standard;

38. continuing to work towards universalisation and strengthening of the IAEA safeguards system to ensure greater detectability of violations of non-proliferation obligations, in particular through the adoption and implementation by all states concerned of the Comprehensive Safeguards Agreement together with the Additional Protocol and, where relevant, the Revised Small Quantities Protocol, and for further strengthening the safeguards system;

39. working for recognition by the 2010 NPT Review Conference and the IAEA Board of Governors, that the conclusion and implementation of a Comprehensive Safeguards Agreement together with an Additional Protocol is today’s verification standard, under Article III of the NPT;

40. highlighting the IAEA’s unique role in verifying states’ compliance with their nuclear non-proliferation commitments;

41. stressing further the IAEA’s important role in assisting them, on request, to improve the security of nuclear materials and installations, and calling on states to support the IAEA;

42. recognising the importance of appropriate effective export controls, in compliance with United Nations Security Council Resolutions 1540 (2004) and 1887 (2009) and in accordance with paragraph 2 of Article III of the NPT;

43. implementing, at national level, effective export, transit, transshipment and re-export controls, including appropriate laws and regulations for that purpose, and resolute international and national efforts to combat proliferation financing and to control access to tangible transfers of technology;

44. enacting effective criminal sanctions against acts of proliferation, in order to deter illegal export, transit, brokering, trafficking and related financing, in compliance with United Nations Security Council Resolution 1540 (2004);

45. urging the Zangger Committee and the Nuclear Suppliers Group (NSG) to share their experience on export controls, so that all states can draw on the arrangements of the Zangger Committee and the NSG guidelines and their implementation;

46. pointing out the need to finalise at an early date the strengthening of the NSG guidelines, in particular on strengthened export controls on enrichment
and reprocessing technologies, and to work within the NSG towards making the adherence to the Additional Protocol a condition for nuclear supply;

47. calling on the States Parties to the Convention on the Physical Protection of Nuclear Material to ratify as soon as possible the Amendment to the Convention, in order to expedite its entry into force;

48. encouraging the development of proliferation-resistant and safeguards-friendly technologies;

2.- EU STATEMENT AT MAIN COMMITTEE II

The NPT is a unique and irreplaceable multilateral instrument for maintaining and reinforcing international peace, security and stability, in that it establishes a legal framework for preventing proliferation of nuclear weapons and for developing further a verification system guaranteeing that non nuclear-weapons States use nuclear energy solely for peaceful purposes, and that it represents the essential foundation for the pursuit of nuclear disarmament in accordance with Article VI of the Treaty, and an important element in the further development of nuclear energy applications for peaceful purposes. Strengthening the non-proliferation regime should be a key priority for all States in order to prevent the proliferation of weapons of mass destruction and their means of delivery, which undermines the security of all nations. Non-proliferation, disarmament and arms control are mutually reinforcing, and together with confidence, transparency and reciprocity are vital aspects of collective security. If we want to preserve the central role of the NPT in promoting security for all, we must reaffirm that all States must take concerted and resolute action to ensure strict compliance with all non-proliferation obligations, including safeguards obligations, and respond quickly and effectively to non-compliance.

We reaffirm the concrete and realistic measures which the EU presented to the 2009 NPT PrepCom, as part of its forward-looking proposals on all three pillars of the NPT which could be part of an action plan to be adopted by the Review Conference. In our view, they would significantly improve our collective capacity to tackle proliferation and strengthen the non-proliferation regime. In addition to the points just mentioned, these measures are:

a) Resolute action in response to proliferation crises, in particular in the Islamic Republic of Iran and the Democratic People’s Republic of Korea;

b) Determination of the consequences of a State’s non-compliance with its non-proliferation obligations under the Treaty, in particular with its safeguards agreement, and of withdrawal from the Treaty, including suspension of nuclear cooperation and transfers;

c) Promotion of the universalisation of the NPT;

d) Universalisation and strengthening of the IAEA safeguards system, in particular through the universal adoption of the Additional Protocol, including technical updates of its Annex II, and through reinforcing the State and regional systems of accountancy for and control of nuclear
materials as well as the 2005 revised Small Quantities Protocol, where applicable;
e) Improvement of nuclear security and of physical protection of nuclear materials, in accordance with the amended Convention on the Physical Protection of Nuclear Material (CPPNM), and the minimisation, wherever technically and economically feasible, of the use of highly enriched uranium (HEU) in peaceful nuclear activities, both with a view to preventing illicit trafficking and nuclear terrorism;
f) Strengthening of export controls including recognition of the Zangger Committee Memoranda A and B as the minimal NPT export controls for conducting nuclear trade as well as border controls of nuclear material, equipment and technology, in particular of sensitive nuclear material, equipment and technology with proliferation potential, and development of technical cooperation, assistance activities and information-sharing to this end;
g) Cooperation to further develop multilateral schemes as viable and credible alternatives to the development of exclusively national enrichment and reprocessing capabilities;
h) Adoption of national criminal sanctions against acts of proliferation, and development of assistance to countries and to public and private actors, with a view to raise their awareness in this area;
i) Resolute international and national efforts to combat proliferation financing;
j) Adoption of measures to prevent intangible transfers of knowledge and know-how, including mechanisms of cooperation in terms of consular vigilance;
k) Development of proliferation-resistant and safeguards-friendly technologies.

Strengthening the non-proliferation regime should be a key priority for all States in order to prevent the proliferation of weapons of mass destruction and their means of delivery, which undermines the security of all nations. Rules must be observed and States must be liable for their acts of non-compliance.

The EU remains gravely concerned by the major proliferation challenges posed by the Democratic People’s Republic of Korea (DPRK) and the Islamic Republic of Iran, who have both continued to violate their international obligations in clear defiance of the United Nations and the IAEA, despite repeated and ambitious offers by the international community to discuss these issues, pursue comprehensive and fair negotiations and work for a diplomatic solution. All NPT States Parties must ensure strict compliance with non-proliferation obligations and take resolute action, including the enforcement of UN Security Council Resolutions, in response to the challenges posed by these countries to the non-proliferation regime and to regional and international security.

The proliferation risks presented in particular by Iran continue to be a matter of grave concern to us and to the international community. The EU deeply
regrets Iran's refusal to start negotiations on its nuclear program despite the many dialogue and cooperation offers from the international community and in particular from China, France, Germany, Russia, the United Kingdom, the United States and the EU High Representative for Foreign Affairs and Security Policy. The EU reaffirms its full and unequivocal support for efforts to find a negotiated long-term solution to the issue within the framework of UNSCR 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008) and for the dual-track approach.

The EU recognizes that Iran, like any other States party to the NPT, has the inalienable right to develop and use nuclear energy for peaceful purposes, but the international community has to be sure that Iran complies with its obligations under the NPT and its safeguards agreement. The Director General of the IAEA has reported on many occasions that Iran is in breach of its safeguards obligations, that it does not comply with the repeated demands of the IAEA Board of Governors and the UN Security Council by pursuing its enrichment activities, that it fails to cooperate fully with the IAEA, and that it needs in particular to clarify outstanding issues which give rise to concerns about possible military dimensions to Iran's nuclear programme.

If Iran were to acquire a military nuclear capability, this would constitute an unacceptable threat to regional and international security. Moreover, a failure to find a diplomatic solution to the Iranian nuclear issue could jeopardize the key objectives we are pursuing in the NPT framework: non-proliferation, disarmament, peaceful uses of nuclear energy, and implementation of the 1995 resolution on the Middle East. Iran's persistent failure to meet its international obligations under the relevant resolutions of the United Nations Security Council and the IAEA thus warrants a clear and firm response from the international community.

The EU calls upon Iran to engage seriously with the international community in a spirit of mutual respect, in order to find a negotiated solution which will address Iran's interests, including the development of a civil nuclear power generation programme, as well as the international community's concerns. Iran must restore confidence in an exclusively peaceful nature of its nuclear activities. Should it fail to do so, it will only isolate itself further.

Past actions taken by the DPRK, namely ceasing all cooperation with the IAEA, conducting tests of nuclear explosive devices and other provocative actions, give cause to grave concern. They undermine the stability in the Korean peninsula and in the region and represent a clear threat to international peace and security. The DPRK must comply, unconditionally, unequivocally and without delay, with all its international obligations under the relevant resolutions of the United Nations Security Council and the IAEA and return to the negotiations with a view to achieving the verifiable denuclearization of the Korean Peninsula.

DPRK's defiance has warranted a strong international response. For this reason, the EU supported the adoption by consensus of Resolution 1874
(2009) of the United Nations Security Council that condemned the nuclear test conducted by DPRK in May 2009 and reaffirmed that the DPRK shall suspend all activities related to its ballistic missile programme and established a strengthened sanctions regime. The DPRK case must unite us in constructing an even more robust non-proliferation regime.

We strongly believe that lessons learned from proliferation crises should be reflected in the outcome documents of this 2010 Review Conference. Mindful of the major proliferation challenges we referred to and of the necessity to preserve the integrity of the Treaty, it is crucial that we consider and agree upon appropriate measures to effectively deal with the consequences of State’s non-compliance with its non-proliferation obligations, including safeguards obligations, under the NPT, including strengthening the role of the UN Security Council, as final arbiter, in order that it can take appropriate action. We also call for nuclear cooperation to be suspended where the IAEA is not able to provide adequate assurances that a State’s nuclear programme is designed exclusively for peaceful purposes, until such time as the Agency is able to provide such assurances.

This Review Conference should address the potential implications for international peace and security of withdrawal from the NPT and should arrive at a common understanding on how to respond to a notice of withdrawal and its consequences with purpose and urgency, including arrangements for maintaining adequate IAEA safeguards on all nuclear materials, equipment, technologies and facilities developed for peaceful purposes. Furthermore, we should request the Security Council to act promptly in such cases, which could constitute a threat to international peace and security.

The IAEA has an indispensable global role in detecting the proliferation and diversion of nuclear material and in this way also countering new threats of nuclear and radiological terrorism. The international safeguards system of the IAEA, including the Additional Protocol, is essential for the effective implementation of NPT non-proliferation obligations as its prime objective is to detect and deter the diversion of nuclear materials for use in nuclear weapons. The EU believes that this Review Conference should recognize the Comprehensive Safeguards Agreements together with the Additional Protocol as the current IAEA verification standard, under Article III of the NPT, and support its universalization. The Director General of the IAEA has recently stated that the implementation of the Additional Protocol, already signed by 131 States and ratified by 98 States, is necessary to enable the IAEA to provide credible assurance not only about the non-diversion of declared nuclear material, but also about the absence of undeclared nuclear material and activities.

IAEA safeguards promote further confidence among States and, being a fundamental element of the Treaty, help to strengthen their collective security and to build the confidence which is essential for enhanced nuclear cooperation among States.
The European Union actively supports the Agency's safeguards system and is pleased to announce its intention to contribute to the modernisation of its Safeguards Analytical Laboratory.

Furthermore, if it is to be effective, our action against proliferation must also be based on resolute operational cooperation to prevent and disrupt illicit transfers, to control exports even more effectively, to counter illegal networks of diversion and trafficking, to secure nuclear and radioactive materials and to reduce the risk of a link-up between terrorism and weapons of mass destruction, to combat proliferation financing.

In this respect, the EU is committed to strong nationally and internationally coordinated export controls, including recognition of the Zangger Committee Memoranda A and B as minimal NPT nuclear export controls. We also look forward to finalizing at an early date the strengthening of the Nuclear Suppliers Group guidelines, in particular on strengthened export controls on enrichment and reprocessing technologies, and to work within the NSG towards making the adherence to the Additional Protocol a condition for nuclear supply.

The illicit trade in highly sensitive nuclear materials, equipment and technology is a matter of serious concern for all. In view of the enhanced proliferation threat, we consider it necessary for exporting states to assume their responsibilities and take measures to ensure that exports of sensitive materials, equipment and technologies are subject to appropriate surveillance and control.

Given the proliferation sensitive nature of enrichment and reprocessing technologies, the export of these technologies should meet the highest non-proliferation, safety and security standards and take into account the relevant characteristics of a civilian nuclear programme.

We continue to be deeply concerned about the growing of risk nuclear and radiological terrorism and we are firmly determined to combat this threat. The EU supports all measures, in particular Resolution 1540 of the UN Security Council, designed to prevent terrorists from acquiring weapons of mass destruction or connected materials. We call on all States that have not yet done so, to sign, ratify and implement the International Convention for the Suppression of Acts of Nuclear Terrorism, as important part of the international legal framework to address the threats of nuclear terrorism, and to subscribe to the principles of the Global Initiative to Combat Nuclear Terrorism.

We reaffirm our commitment to strengthening nuclear security, particularly in view of the threat posed by nuclear terrorism. By deterring and detecting diversion of nuclear material, the IAEA also makes a critical contribution to ongoing international efforts to counter new threats of nuclear and radiological terrorism. We will continue to support IAEA activities in this field. The EU is the major contributor to the IAEA Nuclear Security Fund and we are in the process of providing additional funding in the very near future.
More than 20 million Euros have been spent to upgrade the nuclear security situation in third countries. We call on the States Parties to the Convention on the Physical Protection of Nuclear Material to ratify as soon as possible the Amendment to the Convention, in order to expedite its entry into force. We encourage minimization of the use of highly enriched uranium in peaceful nuclear activities, wherever technically and economically feasible. We welcome the undertakings endorsed at the recent Washington Nuclear Security Summit in support of national and international efforts to strengthen nuclear security and reduce the threat of nuclear terrorism.

The European Union also supports other initiatives and mechanisms intended to tackle proliferation and strengthen the non-proliferation regime, including, the development and use of applied research into proliferation resistance; the adoption of national criminal sanctions against acts of proliferation and development of assistance to countries and to public and private actors, with a view to raising their awareness in this area; the adoption of measures to prevent intangible transfers of knowledge and know-how, including mechanisms of cooperation in terms of consular vigilance; and resolute international and national efforts to combat proliferation financing, welcoming the work being conducted within the Financial Action Task Force and encouraging it to continue to work in this regard.

The EU continues to attach great importance to the development of internationally recognized nuclear weapon free zones, established on the basis of arrangements freely arrived at among States of the region concerned, as elaborated in the guidelines adopted by the United Nations Disarmament Commission (UNDC) in 1999. The EU notes the entry into force of the Central Asian Nuclear Weapon-Free Zone Treaty, which came into force in March 2009, and the African Nuclear Weapon Free Zone Treaty, the Pelindaba Treaty, which came into effect in July 2009. We hope that outstanding issues concerning some nuclear weapon free zones can be resolved through consultations, in accordance with the UNDC guidelines, and with the agreement of all parties involved. We stand ready to provide technical cooperation to support the implementation of the Treaty of Pelindaba and to promote further adherence by other African States. We recall that the two nuclear-weapon States which are members of the European Union are parties to the protocols to this Treaty.